## IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:17-cy-199

TONY GALLOWAY, et al,	)	
Plaintiff(s),	)	
VS.	) ) ORDEI	₹
UPDISH SERVICES, LLC,	)	_
	)	
Defendant.	) ) )	

THIS MATTER is before the Court *sua sponte* to ascertain subject matter jurisdiction. The Defendant Up Dish Services, LLC, removed this action from state court based upon diversity jurisdiction (#1). In the Notice of Removal (#1), the Defendant alleges that it is a Delaware Limited Liability Company with its principal office in the state of Tennessee. The Defendant further alleges that the Plaintiffs are citizens and residents of Henderson County, North Carolina and thus there is complete diversity in this matter.

Courts have an affirmative duty to question subject matter jurisdiction even when the parties have not done so. <u>Interstate Petroleum Corp. v. Morgan</u>, 249 F.3d

215 (4th Cir. 2001); Plyer v. Moore, 129 F.3d 728, 732 n.6 (4th Cir. 1997), certiorari denied 524 U.S. 945, 118 S.Ct. 2359, 141 L.Ed.2d 727 (1998); 28 U.S.C. §1447(c)("If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded."). A limited liability company is a citizen of all states in which its constituent members are citizens. Carden v. Arkoma Associates, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). The Defendant has not disclosed in their Notice of Removal whether the constituent members or partners of its members are North Carolina residents and therefore will be required to do so.

## **ORDER**

IT IS, THEREFORE, ORDERED that on or before November 1, 2017, the Defendant shall file a response disclosing the names and citizenships, if any, of all the constituent members or partners of the above referenced LLC and, for any such constituent members or partners that are limited liability companies or partnerships, to identify the citizenships of the respective constituent members or partners until all such constituents are fully identified.

Signed: October 3, 2017

Dennis L. Howell United States Magistrate Judge

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